



NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

BARBARA ILIANA HUERTA CANO,
Debtor.

Case No. 2:19-bk-13957-RK

Chapter 7

**ORDER DENYING MOTION OF CHAPTER 7
TRUSTEE FOR ORDER VACATING
DEBTOR'S DISCHARGE AND FOR
DISMISSAL OF CASE**

Date: November 19, 2019

Time: 2:30 p.m.

Courtroom: 1675

This bankruptcy case came on for hearing before the undersigned United States Bankruptcy Judge on November 19, 2019 on the Motion of Sam S. Leslie, Chapter 7 Trustee for Order Vacating Debtor's Discharge and for Dismissal of Case ("Motion") (Docket No. 29), filed on October 25, 2019. No appearances were made at the hearing.

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Having considered the Motion and for the reasons stated in its tentative ruling on the Motion posted before the hearing on the court's website (copy attached hereto) and on the record at the hearing, the court hereby denies the Motion without prejudice.

IT IS SO ORDERED.

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Date: November 20, 2019



Robert Kwan
United States Bankruptcy Judge

TENTATIVE RULING ON MOTION

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3 Deny motion of Chapter 7 trustee to dismiss bankruptcy case and "vacate" debtor's
4 discharge without prejudice because: (1) the Chapter 7 Trustee lacks standing to bring
5 a motion to dismiss under FRBP [Federal Rule of Bankruptcy Procedure] 1017(c), which
6 refers to 11 U.S.C. 707(a)(3), which in turn states that only the United States Trustee
7 may bring a motion to dismiss for failure to file required documents under 11 U.S.C.
8 707(a)(3) ("only on a motion by the United States Trustee"), and thus, the Chapter 7
9 Trustee cannot bring a motion to dismiss under FRBP 1017(c); (2) since debtor's
10 discharge in this case was entered on 7/22/19, by seeking to "vacate" discharge, the
11 Chapter 7 trustee is in effect seeking to revoke debtor's discharge which requires an
12 adversary proceeding under FRBP 7001(4), and thus, the Chapter 7 trustee may not
13 proceed by motion to revoke debtor's discharge. Denial of the motion is without
14 prejudice on grounds that the motion is procedurally defective. Appearances are
15 required on 11/19/19, but counsel and self-represented parties may appear by
16 telephone in accordance with the court's telephone appearance procedures posted
17 online on the court's website.
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